



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2013-1072]

RIN 1625-AA09

Drawbridge Operation Regulation; Terrebonne Bayou, LA

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is changing the operating schedule that governs the St. Ann swing bridge across Terrebonne Bayou, mile 28.8, at Bourg, Terrebonne Parish, Louisiana. The change will allow the bridge to operate on signal if at least 24 hours advanced notice is given. This change increases the efficiency of operations allowing for the safe navigation of vessels through the bridge while recognizing the low volume of vessel traffic through the bridge.

DATES: This interim rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Comments and related material must reach the Coast Guard on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of Docket Number USCG-2013-1072. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on "Open Docket Folder" on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may submit comments, identified by docket number, using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: (202) 493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further

instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. David Frank; Bridge Administration Branch, Eighth Coast Guard District; telephone 504-671-2128, e-mail david.m.frank@uscg.mil If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
USCG	United States Coast Guard
NEPA	National Environmental Policy Act
§	Section Symbol
U.S.C.	United States Code
MGL	Mean Gulf Level
SR	State Route

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2013-1072), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number (USCG-2013-1072) in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached

the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2013-1072) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may

submit a request for one to the docket using one of the three methods specified under ADDRESSES. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Regulatory History and Information

As provided under the "Public Participation and Request for Comments" section above, this interim rule includes a request for comments and the Coast Guard encourages the public to participate through the comment process. Comments received will be reviewed to determine if this interim rule requires further review or revision before becoming final.

The Coast Guard is issuing this interim final rule without prior notice pursuant to authority under section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 et seq.). This provision authorizes an agency to issue a rule without prior notice when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." While the Coast Guard does not anticipate any adverse comment regarding this change in bridge opening requirement, this rule includes a request for comments during the first 30 days that the rule is in effect, providing the public an opportunity to comment on the change while it is in place. Should comments received propose or support the need to

revise this change, the Coast Guard will address such comments and revise this interim rule as necessary. It is unnecessary to provide prior notice and comment because there have only been 15 openings for this bridge since 2008 and no requests since 2011. Additionally, if a vessel does require an opening, the vessel owner may do so by giving advanced notice.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the Federal Register. Due to the fact that there is limited vessel traffic on the waterway, implementation of the interim rule will not have a significant effect on the mariners using the waterway. Since 2008, the bridge has opened 15 times for the passage of vessels, averaging less than 3 times per year. The bridge owner requested changing the operating schedule to allow the bridge to remain in the closed-to-navigation position and open for vessel traffic only upon receiving at least 24 hours advanced notification. This change allows the bridge to operate more efficiently because it will not require a full-time tender. Providing a full 30-day notice for changing the operating schedule of the bridge is unnecessary based on the low volume of vessels requiring the bridge to open. Additionally, the bridge will still be able to open to navigation upon giving advanced notice.

C. Basis and Purpose

The Coast Guard received a request from the Terrebonne Parish Consolidated Government, in conjunction with the Lafourche Parish Council, to modify the existing operating schedule of the new St. Ann swing bridge across Terrebonne Bayou, mile 28.8, at Bourg, Terrebonne Parish, Louisiana. The bridge owner would like to open the bridge on signal if at least 24 hours advanced notification is given.

This change will allow the bridge owner to open the bridge for vessel traffic with sufficient notice while removing the requirement that a bridge tender be on the bridge at all times. Construction of the new swing bridge was completed late last year and presently the bridge is required to open on signal for the passage of vessels.

Since 2008, the bridge has only opened 15 times for the passage of vessels and during the two years (11/2011 to 11/2013) that the new bridge was under construction, no requests for openings occurred. Additionally, since completion of the new bridge, no openings have been requested by mariners. Several of the bridges downstream of the St. Ann swing bridge are operated under special operating regulations published in 33 CFR 117.505. These special operating regulations currently operate without negative impacts or issue to the waterway users and increase efficiency. Vessels that would require an opening at the St.

Ann swing bridge, likely passed through or will pass through the SR 24 (Presquille Isle) bridge, located 2.5 miles upstream of the St. Ann swing bridge at mile 31.3 in Bourg. The Presquille Isle bridge is a fixed bridge with a vertical clearance of 3.4 feet above mean high water, elevation 3.4 feet Mean Gulf Level (MGL). Based on the clearance through the Presquille Isle bridge and the low volume of vessels transiting into this area, the primary affect of this change is limited to the property owners located on and vessels transiting this waterway between the St. Ann swing bridge and the Presquille Isle bridge.

D. Discussion of Interim Rule

This interim rule will add a new paragraph (b) to the existing 33 CFR 117.505 for this waterway. It will redesignate the already existing paragraphs for bridges at mile markers above 28.8. This interim rule will allow the bridge to open on signal if at least 24 hours advanced notification is given. As no vessels have transited through this bridge site in the last two years and only 15 openings were requested since 2008, this regulation will have a minimal affect on the property owners located in and vessels transiting the area. Additionally, the bridge can be opened in less than four hours if there is an emergency on the waterway.

E. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

This rule allows the limited number of vessels using this stretch of the waterway the opportunity to transit with proper notification. As this bridge has not opened for vessel traffic during the two years (11/2011 to 11/2013) that the new bridge was under construction and only 15 times since 2008, this regulation will have a minimal affect on those property owners and vessels who wish to use the waterway.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during

rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the property owners or vessel operators who wish to transit on Terrebonne Bayou between mile 28.8 and mile 31.3. However, as provided in this rule and currently under 33 CFR 117.505, vessel owners will still be able to transit the bridge if proper notification is given and in the case of an emergency.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small

business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule

and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions which do not individually or cumulatively

have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. In § 117.505, paragraphs (b), (c), and (d) are redesignated as (c), (d), and (e) and a new paragraph (b) is added to read as follows:

§ 117.505 Terrebonne Bayou.

* * * * *

(b) The draw of the St. Ann bridge, mile 28.8 at Bourg, shall open on signal if at least 24 hours notice is given.

* * * * *

Dated: January 24, 2014

TODD A. SOKALZUK

Captain, U.S. Coast Guard

Commander, Eighth Coast Guard District, Acting

[FR Doc. 2014-03088 Filed 02/11/2014 at 8:45 am; Publication

Date: 02/12/2014]